

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.2, 476.8, 476.9 and 476.18, the Utilities Board (Board) gives notice that on August 23, 2017, the Board issued an order in Docket No. RMU-2016-0017, In re: Review of Reorganization Rules [199 IAC Chapter 32], “Order Adopting Amendments,” amending the Board’s Chapter 32 reorganization rules.

The Board is undertaking a comprehensive review of its rules and, as part of that review, is attempting to make the rules more readable, streamline reporting requirements in the rules, ensure the rules are current, and transition away from providing forms within the rules. The intent of these amendments is to clarify the rules to promote ease of access for those interacting with the Board.

The amendments to Chapter 32 clarify the revenue limits for utilities operating in more than one regulated line of business, such as both natural gas and electricity. The amendments also clarify that multiple corporate officers’ time may be accounted for and allocated rather than a single officer’s time, and eliminate the provision that parties who fail to file testimony and exhibits within the required time frame may still be allowed to present testimony and exhibits at a subsequent hearing.

Notice of Intended Action was published in the June 21, 2017, Iowa Administrative Bulletin as **ARC 3120C**. The Board received joint comments from the Iowa Association of Municipal Utilities and the Iowa League of Cities on July 5, 2017. The two groups opposed the adoption of proposed rule 199—32.10(476) and did not comment on the other amendments. On July 11, 2017, the Board received comments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; the Iowa Rural Water Association (IRWA); and Iowa-American Water Company (Iowa-American). OCA stated it had no objections to the proposed rules. IRWA objected to proposed rule 199—32.10(476) and did not comment on the other amendments. Iowa-American filed comments proposing some clarifying language with respect to proposed rule 199—32.10(476) but did not comment on the other amendments in the Notice of Intended Action.

After further review in light of the stakeholder comments, the Board did not adopt proposed rule 199—32.10(476) of the Notice of Intended Action. The amendments in Items 1 through 5 were adopted as published under Notice of Intended Action.

The order approving this Adopted and Filed rule making can be found on the Board’s Electronic Filing System Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0017.

After analysis and review of the rule making, the Board concludes that these amendments will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.6, 476.76, and 476.77.

These amendments will become effective October 18, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 32.2(1) as follows:

32.2(1) Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to ~~199—IAC 1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476,78GA,HF2206), no public utility shall acquire or lease assets, directly or indirectly, with a value in excess of 3 percent of the utility’s Iowa jurisdictional utility revenue during the immediately preceding calendar year or \$5 million, whichever is greater. For purposes of this subrule and subrule 32.2(2), “value” means the greater of market value or book value. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

ITEM 2. Amend subrule 32.2(2) as follows:

32.2(2) Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to rule ~~32.8(476)~~ 199—32.8(476), no public utility shall sell or

otherwise dispose of assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or \$5 million, whichever is greater. However, for utilities for which the 3 percent limit is greater than \$5 million, if the assets being sold or otherwise disposed of are used in the generation or delivery of utility services to Iowa consumers, an application or a waiver is required if the assets have a value in excess of \$10 million. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

ITEM 3. Amend rule 199—32.3(476) as follows:

199—32.3(476) Declaratory ~~rulings~~ orders. Any person may request a determination as to whether the proposed action ~~it proposes~~ would constitute a reorganization or whether the assets involved would constitute a substantial part of a public utility's assets, as defined in Iowa Code section 476.72 and these rules, by filing a petition for declaratory ruling order, as set out in 199—Chapter 4.

ITEM 4. Amend subparagraph **32.4(2)“e”(1)** as follows:

(1) Accounting for and allocating ~~officer's~~ officers' time between the public utility and any affiliates, and

ITEM 5. Amend subrule 32.9(1) as follows:

32.9(1) Within 40 days after a proposal for reorganization and supporting testimony is filed, the consumer advocate and any intervenors shall file any written testimony and exhibits. This will allow the board an opportunity to consider the testimony and exhibits prior to the 50-day deadline for issuing a notice of hearing. ~~However, failure to file written testimony and exhibits within 40 days shall not preclude the consumer advocate and any intervenors from presenting witness testimony and exhibits at any hearing ordered by the board to be held with respect to the proposed reorganization.~~

[Filed 8/15/17, effective 10/18/17]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/17.